REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed November 20, 2006 (Paper No. 20061114). Upon entry of this response, claims 3-5, 7-11, 16, 18, 62-64, 66-77, 79, and 82-112 are pending in the application. Applicant respectfully requests that there be reconsideration of all pending claims.

I. Rejection of Claims 3-11, 16, 18, 62-64, 66-77, 79, and 82-112 under 35 U.S.C. § 112, Second Paragraph

Claims 3-11, 16, 18, 62-64, 66-77, 79, and 82-112 have been rejected under 35 U.S.C. §112, second paragraph, as alleged being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as his invention. Specifically, the Office Action (p. 2, section 4) indicates that the claims are indefinite becausethe first, second and third channel are not defined in the specification. Applicant respectfully traverses this rejection and requests that the rejection be withdrawn.

Applicant first notes that "there is no requirement that the words in the claim must match those used in the specification disclosure." MPEP 2173.05(f). Applicant respectfully submits that each claim, when read as a whole, does describe the recited channels in a definite manner.

Claim 1 clearly defines the first channel as connecting the first communication device and the troubleshooting portal device which implements the claimed method: "receiving a specification from the first communication device over a first communication channel". The Examiner's attention is respectfully directed to reference numbers 156 in FIG. 3 and 208 in FIG. 4.

In addition, claim 1 clearly defines the second channel as one used to configure a route between the first communication device and the second communication device: "configuring a network device to establish a route between the first communication device and the second communication device using the identified statically configured second communication channel".

The Examiner's attention is respectfully directed to reference numbers 152 in FIG. 3 and 218 in FIG. 4.

Finally, claim 112 clearly defines the third channel as one connecting two other channels: "instructing a network device to couple the statically configured predefined channel to the second channel, producing a third channel". The Examiner's attention is respectfully directed to p. 21, lines 10-12 of the instant specification

II. Rejection of Claims 3-11, 16, 18, 62-64, 66-77, and 87-111 under 35 U.S.C. §102

Claims 3-11, 16, 18, 62-64, 66-77, and 87-111 have been rejected under §102(e) as allegedly anticipated by *Rekhter et al.* (U.S. 6,339,595). Applicant respectfully traverses this rejection. First, this rejection fails to address all claimed features and limitations, and therefore is deficient. The MPEP states "where a claim is rejected for any reason relating to the merits thereof if should be 'rejected' *and the ground of rejection fully and clearly stated"*. MPEP § 707.07(d). The Office Action has failed to provide any guidance as to where many of the claimed features are allegedly disclosed in *Rekhter et al.*, making it extremely difficult for Applicant to accurately and fairly respond. Accordingly, Applicant respectfully submits that the next Office Action must be made non-final: since no amendments are made herein, a more completely stated rejection would necessarily constitute "new grounds".

However, in an effort to advance prosecution of this application, additional arguments are set forth below as to why *Rekhter et al.* fails to teach, disclose, or suggest most of the features recited in independent claims 63, 87, and 105. For at least these reasons, the rejection should be withdrawn. A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

A. Claims 63 and 85

1. *Rekhter et al.* does not teach "receiving a specification from the first communication device…the specification comprising at least one predefined identifier of the second communication device"

In rejecting this feature of claims 63 and 85, the Office Action (p. 3, para. 3) points to several different features in *Rekhter et al.*: an IP address; an edge router; a router's Forward Information Base table (FIB);and a router's Tag Information Base table (TIB). The Office Action clearly alleges that the identifier recited in claims 63 and 85 ("specification comprising at least one predefined identifier") corresponds to an IP address. However, it is not at all clear from the rejection which element of *Rekhter et al.* allegedly corresponds to the specification which includes the identifier. Nor is it clear which element allegedly corresponds to the "first communication device" – from which the specification is received – or which element allegedly correspond to the "second communication device" – which is identified by the specification.

As known to a person of ordinary skill in the art, a router receives packets which are to be routed, and also receives information from other routers. Therefore, Applicant will assume, *arguendo*, that the Office Action is actually alleging that the "specification" recited in claims 63 and 85 corresponds either a) a packet to be forwarded or b) information received from another router. However, Applicant submits that neither of these corresponds to a "specification" received from a first device and comprising an identifier of a second device, as recited in claims 63 and 85.

2. *Rekhter et al.* does not teach "receiving, from the first communication device, a request to establish connectivity between the first and the second communication device"

The Office Action (p. 3, para. 4) alleges that this feature is taught by PE1 and PE2 in FIG. 1 of *Rekhter et al.* Although not clearly stated in the rejection, Applicant will first assume, *arguendo*, PE1 and PE2 correspond to the first and second devices recited in claims 63 and 85. However, there is nothing in FIG. 1 that corresponds to the "request to establish connectivity".

3. *Rekhter et al.* does not teach "wherein the second communication device is located in a second network operated by a second provider different than the first provider"

The Office Action (p. 3, para. 4) alleges that this feature is taught by PE1 and PE2 in

FIG. 1 of *Rekhter et al.* However, *Rekhter et al.* clearly states that PE1 and PE2 are in the **same**

network – the service provider's network. (See Col. 2, lines 55-67.) In contrast, claims 63 and 85

recite that "the second communication device is located in a second network operated by a

second provider **different** than the first provider".

4. *Rekhter et al.* does not teach "identifying a statically configured second communication channel to the second communication device that is associated with the predefined identifier"

The Office Action (p. 4, para. 1) alleges that this feature is taught by *Rekhter et al.* at

Col. 30, lines 30-40. Applicant disagrees. This passage in *Rekhter et al.* merely describes a

precondition for proper operation of the router described in *Rekhter et al.*: "Configuration of the

CE Routers…If the CE router is at a stub site then…if it uses a different PE router for inter-VPN

traffic than for intra-VPN traffic, then it must be configured with appropriate static routes, and

must inject them into its IGP." This passage teaches, at most, that routes are statically

configured. It does not disclose "*identifying*" static routes, as recited in claims 63 and 85.

Furthermore, the channel recited in claims 63 and 85 has several specific features: "second

communication channel **to the second communication device** that is **associated with the**

predefined identifier. A vague teaching of "appropriate static routes" is not equivalent to these

claimed features.

5. *Rekhter et al.* does not teach "configuring a network device to establish a route…using the identified statically configured second communication channel"

The Office Action (p. 4, para. 2) alleges that this feature is taught by *Rekhter et al.* at

Col. 30, lines 30-40. Applicant disagrees. As noted above, this passage in *Rekhter et al.* merely

states that a configuration including static routes is a precondition for proper operation of the

router. However, claims 63 and 85 do not recite configuring a static route. Instead, claims 63

and 85 recite establishing a route "using the identified **statically configured second**

communication channel", which is not taught by the cited passage in *Rekhter et al.*

Furthermore, *Rekhter et al.* does not teach that a computer performs static route configuration,

and Applicant submits that a person of ordinary skill in the art would understand it to be

performed by a human network administrator. In contrast, claims 63 and 85 recite "configuring"

as a step of a computer-implemented method.

6. *Rekhter et al.* does not teach "receiving at least troubleshooting data and a test from the first communication device"

The Office Action (p. 4, para. 3) alleges that this feature is taught by *Rekhter et al.* at

Col. 4, lines 25-33 and Col. 42, lines 10-18. Applicant disagrees. Although the words

"troubleshooting" and "test" do appear in *Rekhter et al.*, these passages in *Rekhter et al.* have

nothing to do with the features recited in claims 63 and 85.

The first cited passage in *Rekhter et al.* simply states: "If the routing algorithm fails, two

different administrations must work together to troubleshoot it." This is <u>not</u> equivalent to

"***receiving***….troubleshooting data", nor is this troubleshooting described as being performed by

a computer, as recited in claims 63 and 85. The second cited passage in *Rekhter et al.* is also

irrelevant to the claim, simply stating: "In order to establish communications over a point-to-point

link, each end of the PPP link must first send LCP packets to configure and test the data link."

This passage teaches, at most, that receiving data can be used to test the link. It does not teach

"receiving….a test" as recited in claims 63 and 85.

B. Claim 87

1. *Rekhter et al.* does not teach "receiving a specification from the first communication device…the specification comprising at least one predefined identifier of the second communication device"

In rejecting this feature of claim 87, the Office Action (p. 9, para. 4) points to several

different features in *Rekhter et al.*: an IP address; an edge router; a router's Forward Information

Base table (FIB);and a router's Tag Information Base table (TIB). The Office Action clearly

alleges that the identifier recited in claim 87 ("specification comprising at least one predefined

identifier") corresponds to an IP address. However, it is not at all clear from the rejection which

element of *Rekhter et al.* allegedly corresponds to the specification which includes the identifier. Nor is it clear which element allegedly corresponds to the "first communication device" – from which the specification is received – or which element allegedly corresponds to the "second communication device" – which is identified by the specification.

As known to a person of ordinary skill in the art, a router receives packets which are to be routed, and also receives information from other routers. Therefore, Applicant will assume, *arguendo*, that the Office Action is actually alleging that the "specification" recited in claim 87 corresponds either a) a packet to be forwarded or b) information received from another router. However, Applicant submits that neither of these corresponds to a "specification" that is received from a first device and that comprises an identifier of a second device, as recited in claim 87.

2. *Rekhter et al.* does not teach "receiving, from the first communication device, a request to establish connectivity between the first and the second communication devicer"

The Office Action (p. 9, para. 5) alleges that this feature corresponds to a "request to establish PE1" at Col. 16, lines 12-27 of *Rekhter et al.* Applicant disagrees. This portion of *Rekhter et al.* appears to disclose a provider edge router (PE1) requesting that a neighboring provider transit router (P1) use a particular tag. The requesting router PE1 makes this request by sending a TDP Bind message to neighboring router P1. Such a request between routers is not a ***portal*** receiving a request from a first device to ***establish connectivity*** between the first device and a second device, as recited in claim 87.

3. *Rekhter et al.* does not teach "the second communication device located in a second network operated by a second provider different than the first provider"

The Office Action (p. 9, para. 5) alleges that this feature corresponds to a "request to establish PE1" at Col. 16, lines 12-27 of *Rekhter et al. Rekhter et al.* clearly states that PE1 and P1 are in the ***same*** network – the service provider's network. (See Col. 2, lines 55-67.) In contrast, claim 87 recites that the second communication device is "located in a second network operated by a second provider ***different*** than the first provider".

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4. *Rekhter et al.* does not teach "identifying a predefined second communication channel to the second communication device that is associated with the predefined identifier"

The Office Action (p. 10, para. 1) alleges that this feature is taught by CE, CE1 and PE1 in FIG. 1 of *Rekhter et al.* Since the rejection mentions three elements (CE, CE1, and PE1), it is not at all clear from the rejection which one allegedly corresponds to the "second communication device". Furthermore, there is nothing in FIG. 1 that corresponds to the step "identifying".

5. *Rekhter et al.* does not teach "instructing a network device to couple the first communication channel to the second communication channel...using the predefined second communication channel"

In rejecting this feature of claim 87, the Office Action (p. 10, para. 2) points to several different features in *Rekhter et al.*: an edge router; a router's Forward Information Base table (FIB); a router's Tag Information Base table (TIB); and static route configuration. It is not at all clear from the rejection which of these elements allegedly corresponds to the "first communication channel" or the "second communication channel". Applicant submits that none of these elements in *Rekhter et al.* corresponds to the channels recited in claim 87, and that none of these elements corresponds to the step of "instructing" recited in claim 87.

6. *Rekhter et al.* does not teach "receiving at least troubleshooting data and a test from the first communication device"

The Office Action (p. 10, para. 3) alleges that this feature is taught by *Rekhter et al.* at Col. 4, lines 25-33 and Col. 42, lines 10-18. Applicant disagrees. Although the words "troubleshooting" and "test" do appear in *Rekhter et al.*, these passages in *Rekhter et al.* have nothing to do with the features recited in claim 87.

The first cited passage in *Rekhter et al.* simply states: "If the routing algorithm fails, two different administrations must work together to troubleshoot it." This does not describe "receiving....troubleshooting data", nor is this troubleshooting procedure described as being performed by a computer, as recited in claim 87. The second cited passage in *Rekhter et al.* is also irrelevant to the claim, simply stating: "In order to establish communications over a point-to-

point link, each end of the PPP link must first send LCP packets to configure and test the data link." This passage teaches, at most, that receiving data can be used to test the link. It does not teach "receiving....a test" as recited in claim 87.

C. <u>Claims 3-11, 16, 18, 62, 64, 66-77, 88-104, and 106-111</u>

Since claims 63, 87, and 105 are allowable, Applicant submits that claims 3-11, 16, 18, 62, 64, 66-77, 88-104, and 106-111 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant requests that the rejection of claims 3-11, 16, 18, 62, 64, 66-77, 88-104, and 106-111 be withdrawn.

III. <u>Rejection of Claims 79, 82-86, and 112 under 35 U.S.C. §103</u>

Claims 79, 82-86, and 112 have been rejected under §103(a) as allegedly obvious over *Rekhter et al.* (6,339,595) in view of *Burke et al.* (6,996,067). Applicant respectfully traverses this rejection. First, this rejection fails to address all claimed features and limitations, and therefore is deficient. The rejection of independent claim 112 is substantially the same as the rejection of independent claims 63, 87, and 105, even though independent claim 112 contains different features. For example, the rejection of claim 112 fails to address "a troubleshooting manager device" and "a managed communication device".

Next, the MPEP states "where a claim is rejected for any reason relating to the merits thereof if should be 'rejected' ***and the ground of rejection fully and clearly stated"***. MPEP § 707.07(d). The Office Action has failed to provide any guidance as to where many of the claimed features are allegedly disclosed in *Rekhter et al.* and *Burke et al.*, making it extremely difficult for Applicant to accurately and fairly respond. Accordingly, Applicant submits that the next Office Action must be made non-final: since no amendments are made herein, a more completely stated rejection would necessarily constitute "new grounds".

However, in an effort to advance prosecution of this application, additional arguments are set forth below as to why the proposed combination of *Rekhter et al.* and *Burke et al.* fails

to teach, disclose, or suggest <u>most of the features</u> recited in independent claim 112. For at least

these reasons, the rejection should be withdrawn. It is well established at law that, for a proper

rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of

references, the cited combination of references must disclose, teach, or suggest, either

implicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5

U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

A. <u>Claim 112</u>

    1. <u>The combination does not teach "creating, upon user request, a statically configured predefined first channel between the managed communication device and an access unit within an access provider network"</u>

The Office Action (p. 13, para. 1) alleges that this feature is taught by *Rekhter et al.* at

Col. 30, lines 30-40 and Col. 18, lines 39-57. Applicant disagrees. The first cited passage in

Rekhter et al. merely describes static route configuration as a precondition for proper operation

of the router described in *Rekhter et al.* Applicant will first assume, *arguendo*, that the static

route in *Rekhter et al.* corresponds to a "statically configured predefined first channel" as recited

in claim 112. Even so, *Rekhter et al.* does not describe the static route in detail, saying on that

"***appropriate*** static routes" are created. In contrast, the channel recited in claim 112 is

specifically described as "between the managed communication device and an access unit

within an access provider network", a feature not disclosed in *Rekhter et al.*

Furthermore, *Rekhter et al.* does not teach that a computer performs static route

configuration, and Applicant submitsthat a person of ordinary skill in the art would understand it

to be performed by a human network administrator. Nor does *Rekhter et al.* teach that the static

route is created upon user request. In contrast, claim 112 recites "creating…a statically

preconfigured predefined first channel" as a step of a computer-implemented method, and this

step is performed "upon user request".

The addition of *Burke et al.* does not cure these deficiencies of *Rekhter et al.*. Nor does

the Office Action allege that *Burke et al.* discloses these features.

2. <u>The combination does not teach "receiving, over a second channel, an identifier of the managed communication device from the troubleshooting manager device"</u>

The Office Action (p. 13, para. 2) alleges that this feature corresponds to an IP address as described in Col. 7, lines 23-49 of *Rekhter et al.* Applicant disagree. Applicant admits that an IP address can be used as a device identifier. Even so, there is no description in *Rekhter et al.* of an IP address being used to identify a "managed communication device", and there is no discussion in *Rekhter et al.* of such an identifier being received from a "troubleshooting manager device" as recited in claim 112.

The addition of *Burke et al.* does not cure these deficiencies of *Rekhter et al.*. Nor does the Office Action allege that *Burke et al.* discloses these features.

3. <u>The combination does not teach "receiving, from the troubleshooting manager device, a request to establish connectivity between the troubleshooting manager device and the identified managed communication device"</u>

The Office Action (p. 13, para. 3) alleges that this feature corresponds to a "request to establish PE1" at Col. 16, lines 12-27 of *Rekhter et al.* Applicant disagrees. This portion of *Rekhter et al.* appears to disclose a provider edge router (PE1) requesting that a neighboring provider transit router (P1) use a particular tag. The requesting router PE1 makes this request by sending a TDP Bind message to neighboring router P1. A TDP Bind message between routers is not an "identifier of the managed communication device" as recited in claim 112. Nor does *Rekhter et al.* describe any of the routers involved as a "managed communication device" or a "troubleshooting manager device" as recited in claim 112.

The addition of *Burke et al.* does not cure these deficiencies of *Rekhter et al.*. Nor does the Office Action allege that *Burke et al.* discloses these features.

4. <u>The combination does not teach "instructing a network device to couple the statically configured predefined channel to the second channel, producing a third channel""</u>

The Office Action (p. 13, para. 4) alleges that this feature is taught by "PE1 connected to CE, CE1 and P1" in FIG. 1 of *Rekhter et al.* Since the rejection mentions four routers, it is not at all clear from the rejection which one allegedly corresponds to "a network device" as recited in

claim 112, or which connections between routers allegedly correspond to "the configured predefined channel", "the second channel" and "a third channel". Furthermore, there is nothing in FIG. 1 that corresponds to the step "instructing".

The addition of *Burke et al.* does not cure these deficiencies of *Rekhter et al.*. Nor does the Office Action allege that *Burke et al.* discloses these features.

> 5. <u>The combination does not teach "receiving at least troubleshooting data and a test from the first communication device"</u>

The Office Action (p. 13, para. 5) alleges that this feature is taught by *Rekhter et al.* at Col. 4, lines 25-33 and Col. 42, lines 10-18. Applicant disagrees. Although the words "troubleshooting" and "test" do appear in *Rekhter et al.*, these passages in *Rekhter et al.* have nothing to do with the features recited in claim 112.

The first cited passage in *Rekhter et al.* simply states: "If the routing algorithm fails, two different administrations must work together to troubleshoot it." This does not describe "receiving....troubleshooting data", nor is this troubleshooting procedure described as being performed by a computer, as recited in claim 112. The second cited passage in *Rekhter et al.* is also irrelevant to the claim, simply stating: "In order to establish communications over a point-to-point link, each end of the PPP link must first send LCP packets to configure and test the data link." This passage teaches, at most, receiving data, where the receipt of data can be used to test the link. It does not teach "receiving....a test" as recited in claim 112.

The addition of *Burke et al.* does not cure these deficiencies of *Rekhter et al.*. Nor does the Office Action allege that *Burke et al.* discloses these features.

B. <u>Claims 79 and 82-86</u>

Since independent claim 112 is allowable, Applicant submits that claims 79 and 82-86 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant requests that the rejection of claims 79 and 82-86 be withdrawn.

CONCLUSION

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 3-5, 7-11, 16, 18, 62-64, 66-77, and 82-112 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

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